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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,232	12/27/2001	Leo Temoshenko	062891.0662	9099
5073	7590	10/12/2005	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			CHUNG, JI YONG DAVID	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/034,232	TEMOSHENKO ET AL.
	Examiner Ji-Yong D. Chung	Art Unit 2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 7/6/2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/6/2005</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-6, 11-12, 16-18, and 21-22** are rejected under 35 U.S.C. 102(b) as being anticipated by Jungck et al. (Pub. No.: US 2002/0065938, Jungck hereinafter)

With regard to **claim 1** Jungck et shows:

a line interface operable to receive a set-up request packet [See paragraph 0033 for “gateway.” DNS query packets are “request packets”];
a switch processor operable to process set-up request packet [See Fig. 2 for DNS (domain name server) as “switch processor.” DNS query packets are “request packets”] and
a plurality of processors, the switch processor operable to direct the set-up request packet to a selected one of the plurality of processors [A plurality of processors are servers in a network. See Fig. 1. DNS server selects a server based on the name supplied];
the selected one of the plurality of processors operable to generate a set-up reply packet in response to the set-up request packet [The selected one of the server has the ability to setup a

connection and send reply packets, if the server is a web server as indicated in lines 0052], *the set-up reply packet including a virtual identifier associated with the selected one of the plurality of processors as assigned by the switch processor* [Each of the reply packets have an IP address (“a virtual identifier”) associated with the selected server (“selected one of the plurality of processors”)], *the selected one of the plurality of processors operable to transport the set-up reply packet through the line interface in order to establish communication session with the selected one of the plurality of processors* [This limitation is satisfied by Jungck, because all packets travel through the gateway, both the reply and request packets, to and from the selected web server, to establish communication with the client], *the line interface operable to route subsequent packets associated with the communication session directly to the selected one of the plurality of processors in response to the virtual identifier without requiring initial processing by the switch processor*. Once the IP address of the sought after server is given out, the web clients to the web server sends out connection request to the web server; these are sent directly to the web server through the gateway (“line interface”) without going through the “switch processor” (‘domain name server’).

With regard to **claim 2**, Jungck shows *the line interface is operable to receive an information request packet in the communication session, the information request packet including the virtual identifier, the line interface operable to direct the information request packet to the selected one the plurality of processors associated with the virtual identifier*.

Inherent in a DNS in an intranet with a gateway (to the Internet) is the following feature: Once the IP address has been returned from the DNS query (“request packet”), following packets

packets that are involved in the communication between the selected server and the client are directed by the gateway router.

With regard to **claim 3**, Jungck shows *the selected one of the plurality of processors is operable to generate an information reply packet in response to the information request packet, the information reply packet including the virtual identifier* [This is inherent in a network comprising a web server, gateway, and DNS server as shown by Jungck. After the set-up packet has given the IP address, the client can connect to the web server, via “information request packet.” The web server can accept the connection, and return the information reply packet, which contains its IP address]

With regard to **claim 4**, Jungck shows *a virtual identification manager, the virtual identification manager comprising one or more associations of one or more virtual identifiers with one or more of the plurality of processor*. A DNS server inherently contains DNS lookup service (“virtual identification manager”) and DNS table (“one or more associations of one or more virtual identifiers with one or more of the plurality of processor.”)

With regard to **claim 5**, Jungck shows *the switch processor is operable to designate the associations between virtual identifiers and the plurality of processors to the line interface*. The function of DNS is to be able to designate association between IP addresses and domain names (and thus with the processors).

With regard to **claim 6**, Jungck shows *switching fabric operable to route packets to the plurality of processors, the line interface operable to provide information packets received in the communication session to the switching fabric for routing to the selected one of the plurality of processors without directly engaging the switch processor*. The switching fabric is the network formed by the intranet servers, DNS server, and the gateway. The gateway (“line interface” provides the packets to the network (“the switching fabric”) without directly involving DNS, as long as each packets have proper destination IP address.

With regard to **claim 10**, the feature, *the plurality of processors are operable to query the switch processor for an associated virtual identifier upon initialization*, is inherent in Jungck.

In a network with DNS, gateway, and servers, after all servers come online (“upon initialization”), they have the ability to query DNS for the IP address (“virtual identifier”) by executing nslookup command against the DNS server.

Claims 12, 18, and 22 substantively refer to the limitation “identifying the virtual identifier” in various forms of claim language. The network gateway performs the function.

Claims 11-12, 16-18, and 21-22 substantively incorporate a number of limitations from the set of all limitations of claims 1-6, but in method form, means-plus-function form, and in software product form, rather than in apparatus form. The reasons for the rejections of claims 1-6 apply to claims 11-12, 16-18, and 21-22. Therefore, claims 11-12, 16-18, and 21-22 are rejected for substantially the same reasons.

Claims 15, 20, and 25 substantively incorporate all the limitations of claim 10, but in method form, means-plus function form, and software product form, rather than in apparatus form. The reasons for the rejections of claim 10 apply to claims 15, 20, and 25. Therefore, claims 15, 20, and 25 are rejected for substantially the same reasons.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 7-9, 13-14, 19, and 23-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jungck in view of Kashyap (Pat. No. US 6,871,296).

In reference to **claim 7**, Jungck does not show, but Kashyap shows *the switch processor selects a backup processor addition to the selected one of the plurality of processors, the backup processor operable to process the communication session in response to a failure in the selected one of the plurality of processors*. See lines 43-49, column 2, for ‘permanency peer’ (“backup processor”). See lines 16-19, column 4, in which ‘master’ (“switch processor”) selects the backup processor.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a redundant network element (i.e., backup) for the web servers (“plurality of processors”) and added software on DNS server (“switch processor”), in order to provide for redundancy and high degree of fault recovery (See from line 65, column 1 to line 6, column 2). DNS server must be modified, because when there is failure, it must be aware of it such that it will provide proper IP address information (due to the backup server taking requests in place of the failed server) to new address lookup requests.

In reference to **claim 8**, Jungck shows that *the backup processor is assigned selected one of the virtual identifiers*. DNS assigns domain names for each server (“processor”) to all IP addresses.

In reference to **claim 9**, Jungck shows *the switch processor provides state information to the backup processor, the state information associated with the communication session associated with the selected one of the plurality of processors*. The domain name of the primary processor is one of the state information; the backup processor, upon being designated (which would occur after the crash in accordance with Kashyap) must obtain such information from the modified DNS server (“switch processor”). Upon failure, DNS server would assign the failed server name to the backup.

Claims 13 and 23 substantively incorporate all the limitations of claims 7-9, but in method form and software product form, rather than in apparatus form. The reasons for the

rejections of claims 7-9 apply to claims 13 and 23. Therefore, claims 13 and 23 are rejected for substantially the same reasons.

In reference to **claims 14, 19, and 24**, the substance of all their limitations, except two, have been discussed. The discussion of the two limitations follows, with reference to claim 14. Claims 19 and 24 incorporate the two limitations in means-plus-function form and in software product form, rather than in method form. Therefore, the following discussion also applies to claims 19 and 24.

In **claim 14**, the two limitations are:

determining whether the selected one of the plurality of processors associated with the virtual identifier is operational [See lines 16-18, column 3 in Kashyap. The passage speaks about detecting system crash]; and

directing the data packet to the backup processor in response to the selected one of the plurality of processors associated with the virtual identifier not being operational [This feature is shown in Jungck. DNS server in Jungck “routes” the packets, by handing out the IP addresses, to applications that request name-address resolution. Once the backup server’s is assigned to the role of the failed server, the packets are routed to the backup server].

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ji-Yong D. Chung whose telephone number is (571) 272-7988. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ji-Yong D. Chung
Patent Examiner
Art Unit: 2143

MARC D. THOMPSON
MARC THOMPSON
PRIMARY EXAMINER